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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/400,708	09/21/1999	MICHAEL L. GOUGH	NEO1P018	3709

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09/24/2003

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EXAMINER

VU, THONG H

ART UNIT

PAPER NUMBER

2142

DATE MAILED: 09/24/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/400,708

Applicant(s)

GOUGH, MICHAEL L.

Examiner

Thong H Vu

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 13, 14, 18. 6) ☐ Other: _____

1. Claims 1-22 are pending.
2. New title is accepted.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-22 are rejected under 35 U.S.C. § 103 as being unpatentable over Montville et al [Montville 6,356,937 B1] in view of Borr [6,516,351 B2]
4. As per claim 1, Montville discloses a method for executing an application program associated with an electronic message [email system, abstract], comprising:
after an electronic message is received over a network is selected by a user [receiving messages, col 16 lines 42-55], initializing at least one application program wherein the application program is received, at least in part, over the network after the receipt of the electronic message and as the result of the selection by the (first) user of the (first) electronic message [user selection, col 16 lines 42-55];
automatically executing the application program of the electronic message after the initialization thereof [automatically performs decryption, col 16 lines 42-55].

However Montville did not detail the **first** user selects the **first** electronic message. A skilled artisan would have motivation to improve the method of distribution electronic messages on Montville's apparatus and found Borr teaching. Borr discloses a method for granting an opportunistic lock on a selected file (or application program) to a first client in response to a first message [Borr col 15 lines 25-42]

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the technique of distribute the electronic messages by first come-first serve basis as taught by Borr into the Montville's apparatus in order to take advantage of automatically executing process. Doing so would provide a quick, simple and effective process to monitor and control the message distribution over network.

6. Claims 15 and 16 contain the similar limitations set forth of method claim 1. Therefore, claims 15,16 are rejected for the similar rationale set forth in claim 1.

7. As per claim 2, Montville discloses the electronic message is selected by the user by clicking thereon as inherent feature of Email services.

8. As per claims 3,14,20 Montville discloses the application program includes an applet (i.e.: java applet or C programming as equivalent) as inherent feature of Web based applications [Montville col 18 lines 51-65].

9. As per claim 4, Montville discloses the execution of the application program includes retrieving code from a server as inherent feature of download email message including attachment as executable code (i.e: viruses).

10. As per claim 5, Montville discloses the execution of the application program includes a functionality based on the text included with the electronic message as inherent feature of Web based applications [Montville col 18 lines 51-65].

11. As per claim 6, Montville discloses the execution of the application program includes streaming video as inherent feature of Web based applications [Montville col 18 lines 51-65].

12. As per claim 7, Montville discloses the execution of the application program includes outputting an advertisement as inherent feature of Web based applications [Montville col 18 lines 51-65].

13. As per claims 8,19 Montville discloses at least one code segment resides, at least in part, in a browser software as inherent feature of Web based applications [Montville col 18 lines 51-65].

14. As per claim 9, Montville discloses the electronic message is selected on an electronic mail browser as inherent feature of Web based applications [Montville col 18 lines 51-65].

15. As per claim 10, Montville discloses the execution of the application program includes automatically linking to a site on the network upon selection of the indicia as inherent feature of Web based applications [Montville col 18 lines 51-65].

16. As per claim 11, Montville discloses the execution of the application program includes the ability to send a new electronic message over the network as inherent feature of automatically execute application program [Montville col 18 lines 51-65].

Art Unit: 2142

16. As per claim 13, Montville discloses the application program includes markup language which calls an object-oriented computer language (i.e.:DOM, DCOM) as a design choice of application program [see BoBo II reference].

17. As per claims 12,17,18,21,22 Montville discloses the application develops at least one of pictorial, graphic, animated, video and audio display distributed as inherent feature of Web based applications [Montville col 18 lines 51-65].

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Thong Vu, whose telephone number is (703)-305-4643. The examiner can normally be reached on Monday-Thursday from 8:00AM- 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Mark Powell*, can be reached at (703) 305-9703.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9700.

Any response to this action should be mailed to: Commissioner of Patent and Trademarks, Washington, D.C. 20231 or faxed to :

After Final (703) 746-7238

Official: (703) 746-7239

Non-Official (703) 746-7240

Hand-delivered responses should be brought to Crystal Park 11,2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

Thong Vu
Patent Examiner
Art Unit 2142

